STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Oakland Chiropractic Clinic PLC
Petitioner **File No. 21-1556**

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 22nd day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 6, 2021, Oakland Chiropractic Clinic PLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on September 8, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on November 4, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 6, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 17, 2021. The Department issued a written notice of extension to both parties on January 24, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic treatments rendered on July 30, 2021, under procedure codes 98942, 97012, and 97110, which are described as chiropractic manipulative treatment, mechanical traction, and therapeutic exercises, respectively. In its *Explanation of Benefits* letter, the Respondent denied payment on the basis that the treatment exceeded "the period of care for either utilization or relatedness." In its denial, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) in support of its denial.

With its appeal request, the Petitioner submitted documentation that identified the following diagnoses for the injured person in relation to a motor vehicle accident which occurred in June of 2020: segmental and somatic dysfunction of the cervical, thoracic, and lumbar region; other cervical disc degeneration at C5-C6 level; other intervertebral disc degeneration of the thoracic and lumbosacral region; and sprain of ligaments of the cervical, thoracic, and lumbar spine; and cervical disc disorder at C5-C6 level with radiculopathy. In its narrative outlining its reason for the appeal, the Petitioner stated that the injured person has "responded well to conservative chiropractic care despite her multiple factors that delay the normal process of healing, i.e., diabetes and a history of abdominal aortic aneurysm." The Petitioner further stated that the injured person has shown "functional improvement based on OWESTRY indexes and self-reported improvement," and the Petitioner noted its opinion that the injured person had not met "maximum medical improvement."

The Petitioner's request for an appeal also stated:

> I have been in active practice for 27 years and have performed chiropractic [Independent Medical Examinations (IME)] for over 10 years in the state of Michigan. The [Respondent's] reference of the ACOEM guidelines are both outdated and unrelated to chiropractic evaluations and determinations in the state of Michigan by IME peer reviewed chiropractic physicians. Based on that the Official Disability Guidelines, treatment recommendations consistent with the diagnoses given for [the injured person] and pre-existing complicating conditions include up to 38 total visits.

In its reply, the Respondent reaffirmed its position that the treatments rendered on the date of service at issue were not medically necessary and were overutilized in frequency and duration. The Respondent stated:

> Per history chiropractic care was initiated on 07/17/2020 and it appears, well over 65 chiropractic treatment sessions prior to 07/17/2021 have been attended, with little to no interruption. The documents indicate a subjective improvement in "severity of neck and back", also noted per the documentation was "reaching goals and tolerating procedures". Ample opportunity has been given to initiate an independent, self-directed home exercise and conditioning program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed chiropractor with experience producing peer reviews supported by evidence-based medicine. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Milliman Care Guidelines (MCG) for spinal manipulation therapy and the American College of Occupational and Environmental Medicine (ACOEM) practice guidelines for cervical and thoracic spine and low back disorders for its recommendation.

The IRO reviewer explained that according to the most appropriate practice guidelines, "spinal manipulation therapy" is only indicated when supporting evidence and objective findings are identified. In this instance, the IRO reviewer opined that the submitted records lacked supporting evidence and objective findings to support the chiropractic treatment at issue. Specifically, the IRO reviewer noted:

> This is based upon the lack of positive objective findings (orthopedic and neurological findings) noted in the office notes. Additionally, the treatment is not warranted for the diagnoses provided by [the treating provider] … [t]he office notes reviewed do not support the diagnosis of cervical radiculopathy since no positive objective orthopedic or neurological findings were provided. The remaining diagnoses are a soft tissue musculoskeletal diagnosis that will resolve itself in six (6) to eight (8) weeks with conservative chiropractic care. The diagnosis provided does not warrant the extensive amount of care that was provided. Therefore, chiropractic treatment with date of service 07/30/2021 is not medically necessary.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the chiropractic treatment provided to the injured person on July 30, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated September 8, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford